IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Crl.MC.No. 2710 of 2007()

ST.1339/2005 OF THE JFCM COURT-IV, KOCHI.

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PETITIONER: ACCUSED:

SUJA SUNIL MATHEW, W/O. MR.SUNIL MATHEW,
VALIYA PARAMBILVEEDU, PULAMON P.O.,
KOTTARAKARA POLICE STATION, KOTTARAKARA.

BY ADV. SRI.V.SANTHARAM
SRI.ANTO THOMAS

RESPONDENTS: PLAINTIFF:

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1. M/S. BUSINESS INDIA CHITS,
REPRESENTED BY M.G.JOHN (PROPRIETOR) NO.62,
GCDA COMPLEX, MARINE DRIVE, ERNAKULAM, COCHIN-31,
REPRESENTED BY ITS RECOVERY MANAGER AND POWER OF ATTORNEY HOLDER, K.N.KRISHNA PILLAI.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2710 of 2007

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Dated this the 23rd day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. Cognizance was taken by the learned Magistrate. The petitioner appeared before the learned Magistrate and was enlarged on bail. But subsequently the petitioner could not appear before the learned Magistrate allegedly on account of her illness. The learned Magistrate, reckoning her as absconding, has issued coercive processes against the petitioner. Consequently she finds herself in the unenviable predicament of warrants of arrest issued by the learned Magistrate chasing the petitioner. It is in these circumstances that the petitioner has come to this Court with this petition under Section 482 Cr.P.C. According to the petitioner her absence was not willful.

2. The learned counsel for the petitioner submits that the petitioner is willing to appear before the learned Magistrate. But she apprehends that her application for bail may not be considered by the

learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when she surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on

merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over the order.

(R. BASANT)
Judge

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